

Legal Authorities Affecting Boards and Commissions

By-Laws

The following Boards and Commissions have adopted By-Laws. For a copy, please ask the staff liaison assigned to a Board or Commission or the City Clerk's office.

- Bicycle and Pedestrian Advisory Committee
- Board of Library Trustees
- Child Care Advisory Board
- Heritage Preservation Commission
- Housing and Human Services Commission
- Parks and Recreation Commission

City Charter

Appointive Boards and Commissions are covered in the City Charter under Article X. This section is attached for your reference. A complete book of the Charter has also been provided in the Appendix section (inside of pocket) of this Handbook. Additional copies are available in the City Clerk's office. A copy is also available on the City's website at www.sunnyvale.ca.us on the far right column under the Municipal Code link. It is under the "Miscellaneous" section of the Code.

Maddy Act

The Maddy Local Appointive List Act requires that a list of the City's Boards and Commissions appointments and vacancies be posted in a public place on December 31 of each year. The intent of the Act is to help ensure that the general public is provided sufficient access to information regarding opportunities for appointment to Boards and Commissions. To conform to this requirement, the City posts its roster of elected and appointed officials in City Hall, Council Chambers lobby and the public Library.

Municipal Code

The Board of Building Code Appeals is established under the Sunnyvale Municipal Code by Ordinance. A section of the Code and Ordinance 1315 that establishes the Board are attached in the Appendix. A copy of the Municipal Code in its entirety is available in the City Clerk's office and the City's Website at www.sunnyvale.ca.us on the far right column.

Political Reform Act and Conflicts of Interest

What is the Political Reform Act?

The Political Reform Act was enacted by the people of the State of California by an initiative, known as Proposition 9, in 1974. One of the Act's main purposes is to prevent financial conflicts of interest on the part of public officials. Some Commission members are subject to the conflict of interest provisions of the law, which are designed to protect the public from biased decisions. As required by the Political Reform Act, the City has adopted its own Conflict of Interest Code describing the nature of interests that may create a conflict.

The Political Reform Act and other FPPC regulations are available in their website at www.fppc.ca.gov. A copy of the Political Reform Act is also available for viewing in the City Clerk's office.

How does the Political Reform Act Prevent Conflicts of Interest?

The Political Reform Act requires every public official to disclose all financial interests, such as investments, interests in real estate (real property), or sources of income, which may possibly affect the exercise of the official's. Disclosure is made on a form called a "Statement of Economic Interests" (Form 700). Statements of Economic Interests are public records. Any member of the public must be permitted to inspect and copy any statement during normal business hours. Please refer to the City's adopted Fee Schedule for appropriate reproduction charges.

If a public official has a conflict of interest, the Political Reform Act may require the official to disqualify himself or herself from making or participating in a governmental decision, or using his or her official position to influence a governmental decision.

What is a Conflict of Interest?

A conflict of interest exists where: (1) an official makes, participates in, or uses his or her official position to influence governmental decisions; (2) it is foreseeable that the decision will affect the official's financial interest; (3) the effect of the decisions on the official's financial interest will be material; and (4) the effect of the decision on the official's financial interest will be distinguishable from its effect on the public generally.

What does a Commissioner do if there is a Conflict of Interest?

If a commission member has a conflict of interest, the commissioner must not make or participate in making, or in any way attempt to use the official position to influence, a governmental decision relating to the matter in which the commissioner, or a member of the commissioner's immediate family, possess a financial interest. The safest way to address a conflict of interest is for the commissioner to state the basis for the conflict of interest immediately after the Chairperson announces the item for consideration. The member must then refrain from participating in the deliberations, abstain from voting, and leave the dais. Depending on the nature of the conflict, the commissioner may be required to leave the room in which the meeting is being held. The minutes will reflect the commissioner's stated conflict and non-participation.

Penalties for violating the conflict of interest laws are serious and may include fines and a prohibition against serving in public office. Questions regarding a potential conflict of interest should be directed to the City Clerk who will arrange for City Attorney review if necessary. The Fair Political Practice Commission's website at www.fppc.ca.gov and the hotline number 1-866-ASK-FPPC (1-866-275-3772) are additional sources of information.

Pertinent literature from FPPC entitled "Can I Vote" is attached in the Appendix for your reference.

Who Must File Statements of Economic Interests under the Political Reform Act?

The Governor, members of the legislature, elected state and local officials, judges, courts of record, and all high-ranking state and local officials must file Statements of Economic Interests (Form 700). According to the Government Code and the City's Conflict of Interest Code, members of the Planning Commission, Heritage Commission and Board of Building Code Appeals are required to file a Form 700 when they assume and leave office. In addition, an annual statement is also filed in April. These statements are public records and subject to public viewing/inspection/copying.

- Assuming office statements must be filed within 30 days after assuming office.
- Annual statements shall be filed no later than 5:00 p.m. on April 1 of each year. Such statements shall cover the period of the preceding calendar year.
- Leaving office statements must be filed within 30 days of leaving office

Statements of Economic Interests (Form 700) shall be filed with the City Clerk and is kept as a public record. A penalty of \$10 per day, up to a maximum of \$100, may be imposed for late filings.

Pertinent literature entitled "Your Duty to File" is included in the Appendix for your reference. For more information about Statements of Economic Interests (Form 700), please visit FPPC's web site at www.fppc.ca.gov.

Public Records Act

The Public Records Act under Government Code 6252 provides that all official records of the City are open to inspection to any interested citizen at reasonable times. Exceptions to this law are only those records specifically identified in the Act, records relating to legal action in which the City is a party, and records in which the public interest served by not making the record public clearly outweighs the public interest served by the disclosure of the record. All Boards and Commission agendas, minutes, supporting documents, and recordings are public records and must be available for public viewing/inspection.

Please refer any requests for public records to the staff liaison assigned to your Board or Commission.

Ralph Brown Act

The Ralph M. Brown Act ("Brown Act") requires City Councils, Boards and Commissions, and other advisory bodies to follow certain rules in conducting their meetings. The following are the general components of the Act and are discussed as applicable to the City's Boards and Commissions:

With certain exceptions, all Board and Commission meetings must be noticed and open to the public. There may be no action or discussion by the advisory bodies on any item not appearing on the posted/noticed agenda. Boards and Commissions may only briefly respond to statements made or questions posed about items not on the agenda and then request that the topic be agendized for a future meeting.

The definition of "meeting" includes any congregation of a majority of the members at the same time and place to hear, discuss, or deliberate upon an item that is within the subject matter jurisdiction of the commission. The Brown Act specifically prohibits the use of direct communication, personal intermediaries or technological devices (e.g., telephone, fax or e-mail) by a Board or Commission majority to develop collective concurrence on an issue.

A Board or Commission majority may, however, attend the following without following the notice and other rules pertaining to regular meetings: (1) meetings or conferences on general issues that are not City specific; (2) meetings organized by others to address topic(s) of local community concern; and (3) social or ceremonial functions, provided City business is not discussed.

It was once thought that in order for a "meeting" to occur which was subject to the Brown Act, "action" had to be taken at that meeting. It is now clear, however, that a meeting under the Brown Act includes not only action but also deliberations.

Regular and Special Meeting agendas must include opportunities for public input. A public comment period is allowed at the beginning portion of the meeting when members of the public may speak to any relevant topic, regardless of whether that issue is on the agenda for that meeting. The public is also allowed to speak to each item on the agenda as it is being discussed in the meeting. Public testimony in both portions of the meeting is limited typically to three minutes.

A member of the public must not be required, as a condition to attending a Board or Commission meeting, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

Any person attending an open and public meeting of a Board or Commission has the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera unless it constitutes a persistent disruption of the proceedings.

The Board or Commission may not prohibit public criticism of the policies, procedures, programs, or services of the Boards or Commission or of the acts or omissions of the Board or Commission.

A Board or Commission meeting may not be conducted in a facility inaccessible to handicapped individuals.

Board or Commission members subject to the provisions of the Brown Act are in violation of the law, and subject to criminal penalties, if they knowingly discuss or take action at a meeting held in violation of the Act.

In addition to the above provisions, the Brown Act includes rules for proper noticing of various types of public meetings, regulations relating to the conduct of closed sessions, and penalties for the conduct of an unlawful meeting. Questions concerning the Act should be directed to the staff liaison assigned to the Board or Commission.

A 2003 copy of the Brown Act, prepared by the City Attorney's office is in the Appendix section.

Resolutions

Certain Boards and Commissions were established by Council adopted Resolutions. Copies of the following Resolutions are attached in the Appendix:

- Resolution 193-84 (establishing the Arts Commission)
- Resolution 173-92 (establishing the Bicycle Advisory Committee)
- Resolution 134-85 (establishing the Housing and Human Services Committee)